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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,638	01/31/2002	Robert Eugene Jevons	5007117-1	1833

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EXAMINER

COHEN, AMY R

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/061,638

Applicant(s)

JEVONS ET AL.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the angle formed by said first and second legs is 60 degrees, 45 degrees, 30 degrees, and 20 degrees must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the angle formed by said first and second legs is 60 degrees, 45 degrees, 30 degrees, and 20 degrees.

Claim Objections

3. Claim 2 is objected to because of the following informalities:

Claim 2, lines 1-3 “a plurality of in said base member and said first and second sidewalls” is missing a word and/or phrase.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 4-7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is unclear as to how there would be angles of 60, 45, 30, and 20 degrees between the first and second legs if the first and second legs are part of the base, which has already been claimed to be generally L-shaped, a 90 degree angle.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Arends (U. S. Patent No. 5,832,913).

Arends teaches a workpiece positioning tool (100) comprising: an L-shaped, generally flat base member (110), said base member having first and second legs (Fig. 2), said first and second legs having front edges and back edges (Figs. 1 and 2), said first and second legs having unobstructed leg ends and unobstructed first edges (Fig. 1), a first sidewall (105) connected to

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said back edge of said base member first leg, a second sidewall (105) connected to said back edge of said base member second leg, said second sidewall having a first end adjacent said first sidewall and an unobstructed second end, and said first sidewall having a first end adjacent to said second sidewall, and an unobstructed second end (Figs. 1 and 2), a void (120) extending upwardly from said base member and between said first and second adjacent ends.

Arends teaches the workpiece positioning tool comprising a plurality of (115, 125, 135) in said base member and said first and second sidewalls for securing the tool to a workpiece.

Arends teaches the workpiece positioning tool wherein the angle formed by said first and second legs is 90 degrees (Fig. 1 and Col 3, lines 33-50).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arends in view of Cunningham (U. S. Patent No. 5,090,129).

Arends discloses the workpiece positioning tool as described above in paragraph 7 and that the workpiece positioning tool can be positioned so that the angle formed by the first and second legs can be varied (Figs. 12 and 13 and Col 4, line 43-Col 5, line 12).

Arends does not disclose a workpiece positioning tool wherein the angle formed by the first and second legs is 60 degrees, 45 degrees, 30 degrees, or 20 degrees.

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Cunningham discloses a workpiece positioning tool (2) comprising: an L-shaped, generally flat base member (4), said base member having first (10) and second (12) legs wherein the angle formed by the first and second legs is 45 degrees (Col 2, lines 3-6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the workpiece positioning tool of Arends to have the angle formed by the first and second legs at 45 degrees, as taught by Cunningham, since Arends already suggests positioning the first and second legs at angles other than 90 degrees.

With respect to claims 4, 6, and 7: the angles formed by the first and second legs i. e. 60 degrees, 30 degrees, and 20 degrees, absent any criticality, are only considered to be obvious modifications of the angle formed by the first and second legs disclosed by Arends in view of Cunningham as the courts have held that a change in shape or configuration, without any criticality, is within the level of skill in the art as the particular shape claimed by Applicant is ^{or configurations} nothing more than one of numerous shapes that a person having ordinary skill in the art will find obvious to provide using routine experimentation based on its suitability for the intended use of the invention. See In re Dailey, 149 USPQ 47 (CCPA 1976).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose workpiece positioning devices Felix (U. S. Patent No. 6,327,786), Boelling (U. S. Patent No. 5,855,073), Byrn (U. S. Patent No. 5,813,125), Hopf (U. S. Patent No. 5,771,597), Guerin (U. S. Patent No. 5,720,114), Blase (U. S. Patent No. 5,396,707), Baker (U. S. Patent No. 5,199,179), Sorton (U. S. Patent No. 4,947,616), Hennessee

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(U. S. Patent No. 4,361,964), Ponich (U. S. Patent No. 3,276,128), and Cokely (U. S. Patent No. 1,135,259).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (703) 305-4972. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3431.

ARC
November 14, 2002



Diego Gutierrez
Supervisory Examiner
Tech Center 2800